

AMENDED IN ASSEMBLY APRIL 26, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1126

Introduced by Assembly Member Saldana

February 22, 2005

An act to amend Section 23095 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1126, as amended, Saldana. Alcoholic beverage control: licenses: offers in compromise.

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, and the suspension of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law authorizes an alcoholic beverage licensee, as provided, to petition the Department of Alcoholic Beverage Control for permission to make an offer in compromise, before the operative date of the suspension of the alcoholic beverage license, and to pay an amount in lieu of serving the suspension. Existing law prescribes certain guidelines for calculating the applicable amount of the offer in compromise for retail licensees, and provides that an offer for compromise may not be less than \$750 nor more than \$3,000.

This bill would ~~instead~~ provide that an offer in compromise for retail licensees may not be less than ~~\$1,000~~ \$750 nor more than \$5,000.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 23095 of the Business and Professions Code is amended to read:

23095. (a) Whenever a decision of the department suspending a license becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition the department for permission to make an offer in compromise, to be paid into the Alcohol Beverage Control Fund, consisting of a sum of money in lieu of serving the suspension.

(b) No licensee may petition the department for an offer in compromise in any case in which the proposed suspension is for a period in excess of 15 days.

(c) Upon the receipt of the petition, the department may stay the proposed suspension and cause any investigation to be made which it deems desirable and may grant the petition if it is satisfied that the following conditions are met:

(1) The public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and the payment of the sum of money will achieve the desired disciplinary purposes.

(2) The books and records of the licensee are kept in such a manner that the loss of sales of alcoholic beverages that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom.

(d) The offer in compromise for retail licensees shall be the equivalent of 50 percent of the estimated gross sales of alcoholic beverages for each day of a proposed suspension, subject to the following limits:

(1) The offer in compromise may not be less than ~~one thousand dollars (\$1,000)~~ *seven hundred fifty dollars (\$750)* nor more than five thousand dollars (\$5,000).

(2) If the petitioning retailer has had any other accusation filed against him or her by the department during the three years prior to the date of the petition that has resulted in a final decision to suspend or revoke the retail license concerned, the offer in compromise may be not less than one thousand five hundred dollars (\$1,500) nor more than six thousand dollars (\$6,000).

1 (e) Notwithstanding subdivision (b), a licensee may petition
2 the department for an offer in compromise for a second violation
3 of Section 25658 that occurs within 36 months of the initial
4 violation without regard to the period of suspension. In these
5 cases, the offer in compromise shall be the equivalent of 50
6 percent of the estimated gross sales of alcoholic beverages for
7 each day of the proposed suspension, and the offer in
8 compromise may be not less than two thousand five hundred
9 dollars (\$2,500) nor more than twenty thousand dollars
10 (\$20,000).

11 (f) (1) The offer in compromise for nonretail licensees shall
12 be the equivalent of 50 percent of the estimated gross sales of
13 alcoholic beverages for each day of the proposed suspension, and
14 the offer in compromise may not be less than seven hundred fifty
15 dollars (\$750) and may not exceed ten thousand dollars
16 (\$10,000) unless the nonretail licensee has violated Section
17 25500, 25502, 25503, or 25600 by giving to any licensee illegal
18 inducements, secret rebates, or free goods amounting to more
19 than ten thousand dollars (\$10,000) in value, in which case the
20 offer in compromise shall be equal to the value of the illegal
21 inducements, secret rebates, or free goods given.

22 (2) Notwithstanding paragraph (1), any nonretail licensee who
23 pays an offer in compromise based upon a violation in the
24 exercise of any retail privileges of that license shall have the
25 offer in compromise computed on estimated retail gross sales
26 only pursuant to subdivision (d).

27 (3) All moneys collected as a result of penalties imposed under
28 this subdivision shall be deposited directly in the General Fund in
29 the State Treasury, rather than the Alcohol Beverage Control
30 Fund as provided for in Section 25761.